

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

In re: THE FINANCIAL OVERSIGHT AND MANAGEMENT BOARD FOR PUERTO RICO, as representative of THE COMMONWEALTH OF PUERTO RICO <u>et al.</u> , Debtors. ¹	PROMESA Title III Case No. 17 BK 3283-LTS (Jointly Administered)
In re: THE FINANCIAL OVERSIGHT AND MANAGEMENT BOARD FOR PUERTO RICO, as representative of PUERTO RICO ELECTRIC POWER AUTHORITY, Debtor.	PROMESA Title III Case No. 17 BK 4780-LTS

ORDER ADJOURNING COBRA ACQUISITIONS LLC's MOTION TO LIFT STAY ORDER

Before the Court is *Cobra Acquisitions LLC's Motion to Lift the Stay Order* (Docket Entry No. 16328 in Case No. 17-3283 and Docket Entry No. 2428 in Case No. 17-4780, the "Lift Stay Motion"),² filed by Cobra Acquisitions LLC ("Cobra"). The Lift Stay Motion

¹ The Debtors in these Title III Cases, along with each Debtor's respective Title III case number and the last four (4) digits of each Debtor's federal tax identification number, as applicable, are the (i) Commonwealth of Puerto Rico (Bankruptcy Case No. 17-BK-3283-LTS) (Last Four Digits of Federal Tax ID: 3481); (ii) Puerto Rico Sales Tax Financing Corporation ("COFINA") (Bankruptcy Case No. 17-BK-3284-LTS) (Last Four Digits of Federal Tax ID: 8474); (iii) Puerto Rico Highways and Transportation Authority ("HTA") (Bankruptcy Case No. 17-BK-3567-LTS) (Last Four Digits of Federal Tax ID: 3808); (iv) Employees Retirement System of the Government of the Commonwealth of Puerto Rico ("ERS") (Bankruptcy Case No. 17-BK-3566-LTS) (Last Four Digits of Federal Tax ID: 9686); (v) Puerto Rico Electric Power Authority ("PREPA") (Bankruptcy Case No. 17-BK-4780-LTS) (Last Four Digits of Federal Tax ID: 3747); and (vi) Puerto Rico Public Buildings Authority ("PBA") (Bankruptcy Case No. 19-BK-5523-LTS) (Last Four Digits of Federal Tax ID: 3801) (Title III case numbers are listed as Bankruptcy Case numbers due to software limitations).

² All docket entry references herein are to entries in Case No. 17-3283, unless otherwise specified.

requests entry of an order lifting the stay of *Cobra Acquisitions LLC's Motion for Allowance and Payment of Administrative Expense Claims* (Docket Entry No. 8789, the “Administrative Expense Motion”), which the Court originally imposed on October 17, 2019, at the request of PREPA, the Financial Oversight and Management Board for Puerto Rico (the “Oversight Board”), and the Puerto Rico Fiscal Agency and Financial Advisory Authority (collectively, the “Government Parties”).

Cobra filed the Lift Stay Motion on April 6, 2021. On May 26, 2021, the Federal Emergency Management Agency’s (“FEMA”) Recovery Office in San Juan issued a Determination Memorandum which includes an analysis of contracts costs invoiced for one of the two contracts underlying the Administrative Expense Motion. The Government Parties filed their opposition to the Lift Stay Motion on June 4, 2021. (Docket Entry No. 2507 in Case No. 17-4780, the “Opposition”). The Government Parties subsequently filed a status report on June 7, 2021 (Docket Entry No. 2509 in Case No. 17-4780, the “Status Report”). Cobra filed its reply on June 8, 2021 (Docket Entry No. 16905 in Case No. 17-3283, the “Reply”).

The Government Parties argue that the stay should remain in place “at least until parties can assess the FEMA Analysis and confer” about its findings. (Opp. at 12). Cobra acknowledges in its reply that the parties may need time to meet and confer to determine what disputes (if any) exist after the FEMA Analysis. (Reply at 4).

Accordingly, Cobra and the Government Parties are hereby ordered to promptly meet and confer in good faith concerning (i) the May 26, 2021, Determination Memorandum issued by FEMA, and (ii) whether and when a second determination memorandum is expected. The parties to the Lift Stay Motion shall file an additional status report by **Friday, July 20, 2021 at 5:00 p.m. (Atlantic Standard Time)**.

The status report must explain (i) the parties’ position on the tax gross up associated with the work/costs that the Determination Memorandum indicates that FEMA found ineligible; (ii) whether and when a second FEMA Cost Analysis and Determination Memorandum concerning the second contract is expected to be issued; (iii) the status of the criminal proceedings; and (iv) the parties’ positions concerning whether the liquidation of Cobra’s administrative expense claim is necessary in advance of PREPA’s plan confirmation process.

In light of this additional conferral requirement, the hearing in connection with the Lift Stay Motion, which is currently scheduled for Wednesday, June 16, 2021 at 9:30 a.m. (Atlantic Standard Time), is hereby adjourned to the Omnibus Hearing scheduled for **Wednesday, August 4, 2021, at 9:30 a.m. (Atlantic Standard Time)**.

SO ORDERED.

Dated: June 14, 2021

/s/ Laura Taylor Swain
LAURA TAYLOR SWAIN
United States District Judge